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Federal Communications Commission
Washington, D.C. 20554

MAY 23 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Ms. Sue J. Smith
Director, Office of Agency Liaison
Room 6, OEOB
The White House
Washington, D.C. 20500

Dear Ms. Smith:

Thank you for the letter dated April 12, 1996, forwarding a letter from Bonnie Sue Welch Johnson, regarding the Commission's policies for licensing 800 MHz Specialized Mobile Radio (SMR) systems. Ms. Johnson expresses concern regarding the Commission's decision to redesignate the 800 MHz General Category Pool frequencies. Ms. Johnson also expresses concern about the proposed use of competitive bidding procedures to award future licenses on these frequencies.

On December 15, 1995, the Commission issued a First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making (First Report and Order) in PR Docket No. 93-144, which addressed the treatment of the General Category. In the First Report and Order, the Commission determined that the overwhelming majority of General Category channels are used for SMR as opposed to non-SMR service. In fact, our licensing records indicate that there are three times as many SMR licensees using General Category channels as any other type of Part 90 licensee. The Commission therefore concluded that the most efficient use of the General Category channels would be to redesignate them exclusively for SMR use. Thus, the First Report and Order provided that in the future, only SMR service providers will be eligible for new licenses in the General Category pool. Existing non-SMR licensees on General Category channels will continue to operate under their current authorizations, however, and will be fully protected from interference by new SMR licensees. In addition, the Commission's decision specifies that SMR service providers are no longer eligible to apply for licenses on Business or Industrial/Land Transportation channels. As a result, we anticipate that the First Report and Order will make more spectrum available for licensees such as Ms. Johnson, who are currently eligible, and will continue to be eligible, to apply in the Business and Industrial/Land Transportation categories. For your convenience and information, enclosed is a copy of the Press Release concerning the First Report and Order, which includes a summary of the principal decisions and proposals made.

The Commission's decision to auction 800 MHz SMR spectrum is consistent with Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used to award spectrum licenses. Pursuant to these criteria, auctions are to be used to award mutually exclusive initial licenses or construction permits for services likely to involve the licensee receiving compensation from subscribers. The statute also requires that the Commission determine that auctioning the spectrum will further the public interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging

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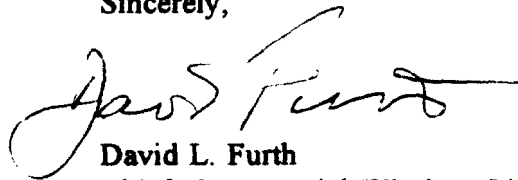
Ms. Sue J. Smith

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efficient spectrum use. The Commission has concluded that auctioning of SMR licenses satisfies these criteria. In particular, we believe that auctions will minimize administrative or judicial delays in licensing, particularly in comparison to other licensing methods such as comparative hearings, lotteries (which are specifically prohibited by the statute if the service is auctionable), or "first-come, first-served" procedures. We note that the statute does not distinguish between new services (such as Personal Communications Services) and existing services in terms of whether initial licenses in a given service are auctionable. As noted above, however, the Commission's decision to use auctions applies only to issuance of initial licenses in the service, and is not intended to affect rights afforded to licensees under existing authorizations.

Thank you for your inquiry.

Sincerely,

A handwritten signature in black ink, appearing to read "David L. Furth", with a stylized, flowing script.

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

Enclosure

THE WHITE HOUSE
WASHINGTON

APRIL 12, 1996
DATE

PAB
auction
2/63

MEMORANDUM FOR:

FCC-11

FROM:

SUE J. SMITH *SP*
DIRECTOR, OFFICE OF AGENCY LIAISON

SUBJECT:

REFERRAL OF CASEWORK IN BULK

An unprecedented number of individuals still write the President and the First Lady for help. I know that this has meant a far greater volume of mail for your agency than ever before. I appreciate your continuing cooperation in our efforts to be as responsive as possible.

The attached letters have not received a White House Staff response. I am forwarding this correspondence to your agency for any appropriate action.

Please return the original incoming letter, along with a copy of any written or telephone response, to me at the address below. I also would appreciate your sending a copy of your agency's log of the names and addresses of these individuals. Any misreferrals should be returned to my office. If you have questions you can reach me at 456-7486.

Sue J. Smith
Director, Office of Agency Liaison
Room 6, OEOB
The White House
Washington, D.C. 20500

Again, thank you for your continuing help.

March 29, 1996

Haddick's
AUTO BODY AND TOWING

The Honorable Bill Clinton
The United States President
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Re: FCC PR Docket no. 93-144, Redesignation of the 800 MHz General Category Pool to a Commercial-only Service and Proposed Implementation of Competitive Bidding Processes.

Dear President Clinton:

In the above-referenced proceeding, the Federal Communications Commission has reallocated 150 channels in the 800 MHz band that have been shared jointly by both private and commercial licensees for more than twenty years. The FCC's justification for this aggressive action was simply that the "*overwhelming majority*" of channels were used for commercial operations. In fact, while there are a significant number of commercial subscriber-based operations, there are also more than 3,400 non-commercial licensees. We happen to be one of the latter who do not use the spectrum to generate business revenues.

Haddick's Towing has operated on the 800 frequency band for the last 19 years, along with two other companies, for a total of 130 radios on just this one frequency; cancellation of this frequency would not only affect us but the other companies as well. Our company serves the Los Angeles County Metropolitan Transit Authority Freeway Patrol program, Los Angeles County Sheriff's Department, California Highway Patrol and the general motoring public. Without reliable radio communication this company could not provide the type of service required and expected. Haddick's has over \$129,000.00 invested in our radio system. If we are required to purchase from a commercial operator our cost for air services alone would increase \$120,000.00 per year (a Nextell estimated quote), over and above our initial equipment and system cost. This increase would be passed on to the tax paying motorist who are already being choked to death by State and Federal Taxes.

We respectfully request that you urge the FCC to reverse its recent redesignation of the 800 MHz General Category pool. That action alone would preclude the FCC from instituting auction processes in a band that is heavily encumbered by both private and commercial licensees. We are at a loss to understand federal government action that would expose our firm to having to compete for spectrum through auctions when our assigned channels were validly licensed in accordance with existing policy?

Your interest and assistance will be most appreciated.

Thanking you in advance,

Sincerely,
HADDICK'S TOWING, INC.


Bonnie Sue Welch Johnson
Vice-President